

California Nurses Association vs. BVNPT
Case No. 00AS00900

On July 14, 2005, the Sacramento Superior Court granted a petition for a writ of mandate filed by the California Nurses Association which commands the Board to set aside regulations it adopted in 2003 which permitted licensed vocational nurses (LVNs) to administer intravenous medications to patients in hemodialysis, pheresis and blood bank settings under certain conditions.

Attached is the January 29, 2003 Notice of Approval of Regulatory Action issued by the Office of Administrative Law which sets out the amendments that were made to the above-referenced regulatory sections and that were invalidated by the writ of mandate issued by the Superior Court. Those regulations had been adopted as amendments to Sections 2542, 2542.1, 2547, and 2547.1 of Title 16 of the California Code of Regulations (see 2003 *California Regulatory Notice Register*, No. 6 at p.194.). **The regulations are now invalid as a matter of law and will no longer be enforced by the Board.** The Board also expects licensed vocational nurses and those responsible for the operation of affected medical and health care facilities to immediately discontinue the administration of intravenous injections of medication by LVNs.

The Board will also forthwith initiate a rulemaking procedure that will formally repeal these amendments.

(7/21/2005)

STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW

In re:

**BOARD OF VOCATIONAL NURSING AND
PSYCHIATRIC TECHN**

REGULATORY ACTION:

Title 16, California Code of Regulations

Amend sections 2542, 2542.1, 2547, and 2547.1

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL File No. 02-1213-01 SR

This action permits licensed vocational nurses who are Board-certified in intravenous therapy to administer specified intravenous medications in hemodialysis, pheresis and blood bank settings under certain conditions.

OAL approves this regulatory action pursuant to section 11349.1 of the Government Code.

DATE: 01/29/03



BARBARA STEINHARDT-CARTER
Senior Staff Counsel

for: SHEILA R. MOHAN
Acting Director/Chief Counsel

Original : Teresa Bello-Jones, Executive Officer
cc : Kim Frankland

Board of Vocational Nursing and Psychiatric Technicians
California Code of Regulations, Title 16, Division 25, Chapter 1
Amendments Repealed by Sacramento Superior Court Effective July 14, 2005

Therefore, all of the amendments indicated below (reflected by overstrikes and underscores) are invalidated and repealed by the writ of mandate issued by the California Superior Court.

Article 8. Intravenous Therapy

§ 2542. Definitions.

As used in this Article:

(a) "Intravenous fluids" means fluid ~~solutions~~ forms of ~~electrolytes, nutrients, vitamins, blood and blood products.~~ blood, blood products, vitamins, nutrients, electrolytes, and other medications including, but not limited to, anticoagulants and antibiotics. Intravenous fluids are differentiated into two categories:

(1) Category I includes blood, blood products, vitamins, nutrients, and electrolytes;

(2) Category II includes other medications including, but not limited to, anticoagulants or antibiotics.

(b) "Superimpose" means to connect a container of intravenous fluid to tubing through which another container of intravenous fluid has just been administered.

(c) "Primary infusion line" means the line which provides a direct infusion between the container and the peripheral vein.

(d) "Secondary infusion line" means a line which provides infusion through a lateral access into a primary infusion line.

(e) "Standardized procedures" means written policies and protocols that:

(1) are readily available to medical and nursing staffs;

(2) were formulated by a committee that included representatives of the medical, nursing, and administrative staffs; and

(3) were adopted by the organized health care system.

(f) "Organized health care system" includes, but is not limited to, facilities licensed pursuant to Section 1250 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

NOTE: Authority cited: Section 2854, Business and Professions Code. Reference: Sections ~~135~~ and 2860.5, Business and Professions Code.

§ 2542.1. Intravenous Therapy.

~~The Board will consider a licensed vocational nurse as competent to start and superimpose intravenous fluids via primary or secondary infusion lines who has completed one of the following:~~

~~(a) A course in intravenous therapy approved by the Board, as defined in Section 2542.3.~~

~~(b) Submitted certification, satisfactory to the Board, by one of the persons specified in Section 2542.4, that the licensee has been instructed in the subject areas as specified in Section 2542.3 and that the licensee has the knowledge, skills and abilities to safely practice venipuncture. For further limitations, see Business and Professions Code section 2860.5.~~

(a) A licensed vocational nurse may start and superimpose Category I intravenous fluids via primary or secondary infusion lines when directed by a licensed physician under the following conditions:

(1) The licensed vocational nurse has either:

(A) Satisfactorily completed a course in intravenous therapy approved by the Board, as defined in Section 2542.3; or

(B) Submitted certification, satisfactory to the Board, by one of the persons specified in Section 2542.4, that the licensee has been instructed in the subject areas specified in Section 2542.3 and that the licensee has the knowledge, skills and abilities to safely practice venipuncture; and

(2) The procedure is performed pursuant to standardized procedures as defined in Section 2542(e).

(b) A licensed vocational nurse may, when directed by a licensed physician, start and superimpose Category II intravenous fluids in hemodialysis, pheresis or blood bank settings under the following conditions:

(1) All the conditions specified in subsection (a) above have been met.

(2) The licensed vocational nurse has received specialized instruction in the proper procedure from a registered nurse or a licensed physician and demonstrates to a registered nurse or licensed physician the requisite knowledge, skills and abilities to perform the procedure. The method of the specialized instruction and demonstration shall be set forth in the standardized procedures as defined in Section 2542(e).

(3) The physician's order is specific to the individual patient.

(4) The physician's individualized order designates the specific Category II intravenous fluids to be used in hemodialysis, pheresis or blood bank procedures within the particular setting; and

(5) A registered nurse or licensed physician is in the immediate vicinity. The definition of immediate vicinity for each facility shall be set forth in the standardized procedures as defined in Section 2542(e).

NOTE: Authority cited: Section 2854, Business and Professions Code. Reference: Section 2860.5, Business and Professions Code.

Article 10. Intravenous Therapy/Blood Withdrawal

§ 2547. Definitions.

As used in this Article:

(a) "Intravenous fluids" means fluid ~~solutions~~ forms of ~~electrolytes, nutrients, vitamins, blood and blood products.~~ blood, blood products, vitamins, nutrients, electrolytes, and other medications including, but not limited to, anticoagulants and antibiotics. Intravenous fluids are differentiated into two categories:

(1) Category I includes blood, blood products, vitamins, nutrients, and electrolytes;

(2) Category II includes other medications including, but not limited to, anticoagulants or antibiotics.

(b) "Superimpose" means to connect a container of intravenous fluid to tubing through which another container of intravenous fluid has just been administered.

(c) "Primary infusion line" means the line which provides a direct infusion between the container and the peripheral vein.

(d) "Secondary infusion line" means a line which provides infusion through a lateral access into a primary infusion line.

(e) “Standardized procedures” means written policies and protocols that:

- (1) are readily available to medical and nursing staffs;
- (2) were formulated by a committee that included representatives of the medical, nursing, and administrative staffs; and
- (3) were adopted by the organized health care system.

(f) “Organized health care system” includes, but is not limited to, facilities licensed pursuant to Section 1250 of the Health and Safety Code, clinics, home health agencies, physicians’ offices, and public or community health services.

NOTE: Authority cited: Section 2854, Business and Professions Code. Reference: Section 2860.5, Business and Professions Code.

§ 2547.1. Intravenous Therapy/Blood Withdrawal.

~~The Board will consider a licensed vocational nurse as competent to start and superimpose intravenous fluids via primary or secondary infusion lines and perform blood withdrawal who has completed one of the following:~~

~~(a) A course of instruction in intravenous therapy and blood withdrawal approved by the Board.~~

~~(b) Submitted certification, satisfactory to the Board, by one of the persons specified in Section 2547.4, that the licensee has been instructed in the subject areas as specified in Section 2547.3 and that the licensee is knowledgeable and competent in the practice of venipuncture and blood withdrawal.~~

(a) A licensed vocational nurse may withdraw blood and start and superimpose Category I intravenous fluids via primary or secondary infusion lines when directed by a licensed physician under the following conditions:

(1) The licensed vocational nurse has either:

(A) Satisfactorily completed a course in intravenous therapy and blood withdrawal approved by the Board, as defined in Section 2547.3; or

(B) Submitted certification, satisfactory to the Board, by one of the persons specified in Section 2547.4, that the licensee has been instructed in the subject areas specified in Section 2547.3 and that the licensee has the knowledge, skills and abilities to safely practice venipuncture and blood withdrawal; and

(2) The procedure is performed pursuant to standardized procedures as defined in Section 2547(e).

(b) A licensed vocational nurse may, when directed by a licensed physician, withdraw blood and start and superimpose Category II intravenous fluids in hemodialysis, pheresis or blood bank settings under the following conditions:

(1) All the conditions specified in subsection (a) above have been met.

(2) The licensed vocational nurse has received specialized instruction in the proper procedure from a registered nurse or a licensed physician and demonstrates to a registered nurse or licensed physician the requisite knowledge, skills and abilities to perform the procedure. The method of the specialized instruction and demonstration shall be set forth in the standardized procedures as defined in Section 2547(e).

(3) The physician’s order is specific to the individual patient.

(4) The physician’s individualized order designates the specific Category II intravenous fluids to be used in hemodialysis, pheresis or blood bank procedures within the particular setting; and

(5) A registered nurse or licensed physician is in the immediate vicinity. The definition of immediate vicinity for each facility shall be set forth in the standardized procedures as defined in Section 2547(e).

NOTE: Authority cited: Section 2854, Business and Professions Code. Reference: Section 2860.5, Business and Professions Code.